



February 11, 2003

HOUSE BILL No. 1628

DIGEST OF HB 1628 (Updated February 5, 2003 2:52 PM - DI 105)

Citations Affected: IC 9-13; IC 9-18; IC 34-24; IC 35-45; noncode.

Synopsis: Motor vehicle chop shops. Makes it a Class C felony subject to a fine of not more than \$100,000 to operate or conduct certain activities in support of a chop shop. Establishes a minimum fine for offenses related to the misuse of vehicle identification numbers, labels, or plates. Provides for the seizure of property used in a chop shop or acquired through the proceeds of a chop shop. Provides that certain offenses involving the altering or defacing of automobile identification numbers or in support of a chop shop may be used as a basis for conviction under the racketeer influenced and corrupt organizations (RICO) law.

Effective: July 1, 2003.

Reske, Koch, Noe, Lawson L

January 16, 2003, read first time and referred to Committee on Courts and Criminal Code.
February 10, 2003, amended, reported — Do Pass.

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HB 1628—LS 7247/DI 105+



February 11, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1628

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-23.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2003]: **Sec. 23.5. "Chop shop" means a building, structure, or**
- 4 **other premises used for the purpose of:**
- 5 (1) storing;
- 6 (2) altering;
- 7 (3) destroying;
- 8 (4) disassembling or reassembling;
- 9 (5) dismantling; or
- 10 (6) defacing, destroying, forging, falsifying, or obliterating an
- 11 identification label or number on;
- 12 a motor vehicle or a part of a motor vehicle obtained by theft, auto
- 13 theft, receiving stolen property, dealing in altered property, or
- 14 receiving stolen auto parts, or conspiracy to commit theft, auto
- 15 theft, receiving stolen property, dealing in altered property, or
- 16 receiving stolen auto parts in order to obtain a profit.
- 17 SECTION 2. IC 9-18-8-10.5 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.5. (a) A person who knowingly or intentionally:

- (1) owns or operates a chop shop;
- (2) transports a motor vehicle or a part of a motor vehicle to a chop shop knowing the building, structure, or premises is a chop shop;
- (3) receives a motor vehicle or a part of a motor vehicle from a chop shop knowing the vehicle or part is from a chop shop;
- (4) sells a motor vehicle or a part of a motor vehicle to a chop shop knowing the buyer is a chop shop; or
- (5) buys a motor vehicle or a part of a motor vehicle from a chop shop knowing the seller is a chop shop;

commits a Class C felony.

(b) Notwithstanding IC 35-50-2-6, a court that sentences a person for an offense under this section shall fine the person not more than one hundred thousand dollars (\$100,000).

SECTION 3. IC 9-18-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A person who knowingly:

- (1) damages;
- (2) removes;
- (3) covers; or
- (4) alters;

an original or a special identification number commits a Class C felony.

(b) Notwithstanding IC 35-50-2-6, a court that sentences a person for an offense under this section shall fine the person at least five thousand dollars (\$5,000).

SECTION 4. IC 9-18-8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) A person who knowingly sells or offers for sale a motor vehicle that has had the original or special identification number:

- (1) destroyed;
- (2) removed;
- (3) altered;
- (4) covered; or
- (5) defaced;

commits a Class D felony.

(b) Notwithstanding IC 35-50-2-7, a court that sentences a person for an offense under this section shall fine the person at least five thousand dollars (\$5,000).

SECTION 5. IC 9-18-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) A person who

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1 knowingly or intentionally sells or offers for sale a motor vehicle part
2 that has had the identification number:

- 3 (1) destroyed;
- 4 (2) removed;
- 5 (3) altered;
- 6 (4) covered; or
- 7 (5) defaced;

8 commits a Class D felony.

9 **(b) Notwithstanding IC 35-50-2-7, a court that sentences a**
10 **person for an offense under this section shall fine the person at**
11 **least five thousand dollars (\$5,000).**

12 SECTION 6. IC 9-18-8-15 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) Subsection (c)
14 does not apply to a person who manufactures or installs a plate or label
15 containing an identification number:

- 16 (1) in a program authorized by a manufacturer of motor vehicles
17 or motor vehicle parts; or
- 18 (2) with permission granted by the bureau under this chapter.

19 (b) As used in this section, "identification number" means a set of
20 numbers, letters, or numbers and letters that is assigned to a motor
21 vehicle or motor vehicle part:

- 22 (1) by a manufacturer of motor vehicles or motor vehicle parts; or
- 23 (2) by a governmental entity in Indiana or another state to replace
24 a destroyed, a removed, an altered, or a defaced set of numbers,
25 letters, or numbers and letters assigned by a manufacturer of
26 motor vehicles or motor vehicle parts.

27 (c) A person who knowingly or intentionally possesses a plate or
28 label that:

- 29 (1) contains an identification number; and
- 30 (2) is not attached to the motor vehicle or motor vehicle part to
31 which the identification number was assigned by a manufacturer
32 of motor vehicles or motor vehicle parts or a governmental entity;

33 commits a Class D felony.

34 (d) A person who knowingly or intentionally possesses a plate or
35 label on which an identification number has been altered or removed
36 commits a Class D felony.

37 (e) A person who, with intent to defraud, possesses a plate or label
38 containing a set of numbers, letters, or numbers and letters that
39 purports to be an identification number commits a Class D felony.

40 **(f) Notwithstanding IC 35-50-2-7, a court that sentences a**
41 **person for an offense under this section shall fine the person at**
42 **least five thousand dollars (\$5,000).**

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SECTION 7. IC 34-24-1-1, AS AMENDED BY P.L.123-2002,
SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2003]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are
intended for use by the person or persons in possession of them to
transport or in any manner to facilitate the transportation of the
following:

(A) A controlled substance for the purpose of committing,
attempting to commit, or conspiring to commit any of the
following:

(i) Dealing in or manufacturing cocaine, a narcotic drug, or
methamphetamine (IC 35-48-4-1).

(ii) Dealing in a schedule I, II, or III controlled substance
(IC 35-48-4-2).

(iii) Dealing in a schedule IV controlled substance
(IC 35-48-4-3).

(iv) Dealing in a schedule V controlled substance
(IC 35-48-4-4).

(v) Dealing in a counterfeit substance (IC 35-48-4-5).

(vi) Possession of cocaine, a narcotic drug, or
methamphetamine (IC 35-48-4-6).

(vii) Dealing in paraphernalia (IC 35-48-4-8.5).

(viii) Dealing in marijuana, hash oil, or hashish
(IC 35-48-4-10).

(B) Any stolen (IC 35-43-4-2) or converted property
(IC 35-43-4-3) if the retail or repurchase value of that property
is one hundred dollars (\$100) or more.

(C) Any hazardous waste in violation of IC 13-30-6-6.

(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass
destruction (as defined in IC 35-41-1-29.4) used to commit,
used in an attempt to commit, or used in a conspiracy to
commit an offense under IC 35-47 as part of or in furtherance
of an act of terrorism (as defined by IC 35-41-1-26.5).

(2) All money, negotiable instruments, securities, weapons,
communications devices, or any property used to commit, used in
an attempt to commit, or used in a conspiracy to commit an
offense under IC 35-47 as part of or in furtherance of an act of
terrorism or commonly used as consideration for a violation of
IC 35-48-4 (other than items subject to forfeiture under
IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in
exchange for an act that is in violation of a criminal statute;

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- 1 (B) used to facilitate any violation of a criminal statute; or
 2 (C) traceable as proceeds of the violation of a criminal statute.
 3 (3) Any portion of real or personal property purchased with
 4 money that is traceable as a proceed of a violation of a criminal
 5 statute.
 6 (4) A vehicle that is used by a person to:
 7 (A) commit, attempt to commit, or conspire to commit;
 8 (B) facilitate the commission of; or
 9 (C) escape from the commission of;
 10 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 11 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 12 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 13 under IC 35-47 as part of or in furtherance of an act of terrorism.
 14 (5) Real property owned by a person who uses it to commit any of
 15 the following as a Class A felony, a Class B felony, or a Class C
 16 felony:
 17 (A) Dealing in or manufacturing cocaine, a narcotic drug, or
 18 methamphetamine (IC 35-48-4-1).
 19 (B) Dealing in a schedule I, II, or III controlled substance
 20 (IC 35-48-4-2).
 21 (C) Dealing in a schedule IV controlled substance
 22 (IC 35-48-4-3).
 23 (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
 24 (6) Equipment and recordings used by a person to commit fraud
 25 under IC 35-43-5-4(11).
 26 (7) Recordings sold, rented, transported, or possessed by a person
 27 in violation of IC 24-4-10.
 28 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
 29 defined by IC 35-45-6-1) that is the object of a corrupt business
 30 influence violation (IC 35-45-6-2).
 31 (9) Unlawful telecommunications devices (as defined in
 32 IC 35-45-13-6) and plans, instructions, or publications used to
 33 commit an offense under IC 35-45-13.
 34 (10) Any equipment used or intended for use in preparing,
 35 photographing, recording, videotaping, digitizing, printing,
 36 copying, or disseminating matter in violation of IC 35-42-4-4.
 37 (11) Destructive devices used, possessed, transported, or sold in
 38 violation of IC 35-47.5.
 39 **(12) Property (as defined in IC 35-41-1-23) that is:**
 40 **(A) used in any part; or**
 41 **(B) acquired from the proceeds;**
 42 **of the operation of a chop shop (as defined in IC 9-13-2-23.5).**

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Property is not subject to seizure under this section unless it can be proven by a preponderance of the evidence that the owner of the property knowingly permitted the property to be used in the operation of a chop shop.

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).

(2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.

(5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.

(6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

SECTION 8. IC 35-45-6-1, AS AMENDED BY P.L.123-2002, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

"Enterprise" means:



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(1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or

(2) a union, an association, or a group, whether a legal entity or merely associated in fact.

"Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

"Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

- (1) A provision of IC 23-2-1, or of a rule or order issued under IC 23-2-1.
- (2) A violation of IC 35-45-9.
- (3) A violation of IC 35-47.
- (4) A violation of IC 35-49-3.
- (5) Murder (IC 35-42-1-1).
- (6) Battery as a Class C felony (IC 35-42-2-1).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Child exploitation (IC 35-42-4-4).
- (9) Robbery (IC 35-42-5-1).
- (10) Carjacking (IC 35-42-5-2).
- (11) Arson (IC 35-43-1-1).
- (12) Burglary (IC 35-43-2-1).
- (13) Theft (IC 35-43-4-2).
- (14) Receiving stolen property (IC 35-43-4-2).
- (15) Forgery (IC 35-43-5-2).
- (16) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).
- (17) Bribery (IC 35-44-1-1).
- (18) Official misconduct (IC 35-44-1-2).
- (19) Conflict of interest (IC 35-44-1-3).
- (20) Perjury (IC 35-44-2-1).
- (21) Obstruction of justice (IC 35-44-3-4).
- (22) Intimidation (IC 35-45-2-1).
- (23) Promoting prostitution (IC 35-45-4-4).
- (24) Promoting professional gambling (IC 35-45-5-4).
- (25) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).



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- 1 (26) Dealing in a schedule I, II, or III controlled substance
- 2 (IC 35-48-4-2).
- 3 (27) Dealing in a schedule IV controlled substance
- 4 (IC 35-48-4-3).
- 5 (28) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 6 (29) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- 7 (30) Money laundering (IC 35-45-15-5).
- 8 (31) A violation of IC 35-47.5-5.
- 9 **(32) A violation of IC 9-18-8-10.5.**
- 10 **(33) A violation of IC 9-18-8-12.**
- 11 **(34) A violation of IC 9-18-8-13.**
- 12 **(35) A violation of IC 9-18-8-14.**
- 13 **(36) A violation of IC 9-18-8-15.**
- 14 SECTION 9. [EFFECTIVE JULY 1, 2003] **IC 35-45-6-1, as**
- 15 **amended by this act, applies only to an offense committed under**
- 16 **IC 35-45-6-2 after June 30, 2003.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1628, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 12, delete "major component".

Page 1, line 13, delete "fraud, attempted fraud," and insert **"auto theft, receiving stolen property, dealing in altered property, or receiving stolen auto parts,"**.

Page 1, line 14, delete "fraud" and insert **"theft, auto theft, receiving stolen property, dealing in altered property, or receiving stolen auto parts"**.

Page 2, line 1, after "operates" insert **"a chop shop"**.

Page 2, line 2, delete "major component".

Page 2, line 2, after "part" insert **"of a motor vehicle"**.

Page 2, line 2, after "to" insert **"a chop shop knowing the building, structure, or premises is a chop shop"**.

Page 2, line 3, delete "major component".

Page 2, line 3, after "part" insert **"of a motor vehicle"**.

Page 2, line 3, after "from" insert **"a chop shop knowing the vehicle or part is from a chop shop"**.

Page 2, line 4, delete "major component".

Page 2, line 4, after "part" insert **"of a motor vehicle"**.

Page 2, line 4, after "to" insert **"a chop shop knowing the buyer is a chop shop"**.

Page 2, line 5, delete "major component".

Page 2, line 5, after "part" insert **"of a motor vehicle"**.

Page 2, line 5, after "from" insert **"a chop shop knowing the seller is a chop shop"**.

Page 2, line 6, delete "a chop shop".

Page 5, between lines 35 and 36, begin a new line blocked left and insert:

"Property is not subject to seizure under this section unless it can be proven by a preponderance of the evidence that the owner of the property knowingly permitted the property to be used in the operation of a chop shop."

Page 6, after line 24, begin a new paragraph and insert:

"SECTION 8. IC 35-45-6-1, AS AMENDED BY P.L.123-2002, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Documentary material" means any document, drawing, photograph,

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recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

"Enterprise" means:

- (1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or
- (2) a union, an association, or a group, whether a legal entity or merely associated in fact.

"Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

"Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

- (1) A provision of IC 23-2-1, or of a rule or order issued under IC 23-2-1.
- (2) A violation of IC 35-45-9.
- (3) A violation of IC 35-47.
- (4) A violation of IC 35-49-3.
- (5) Murder (IC 35-42-1-1).
- (6) Battery as a Class C felony (IC 35-42-2-1).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Child exploitation (IC 35-42-4-4).
- (9) Robbery (IC 35-42-5-1).
- (10) Carjacking (IC 35-42-5-2).
- (11) Arson (IC 35-43-1-1).
- (12) Burglary (IC 35-43-2-1).
- (13) Theft (IC 35-43-4-2).
- (14) Receiving stolen property (IC 35-43-4-2).
- (15) Forgery (IC 35-43-5-2).
- (16) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).
- (17) Bribery (IC 35-44-1-1).
- (18) Official misconduct (IC 35-44-1-2).
- (19) Conflict of interest (IC 35-44-1-3).
- (20) Perjury (IC 35-44-2-1).
- (21) Obstruction of justice (IC 35-44-3-4).
- (22) Intimidation (IC 35-45-2-1).
- (23) Promoting prostitution (IC 35-45-4-4).



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- (24) Promoting professional gambling (IC 35-45-5-4).
- (25) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
- (26) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (27) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (28) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (29) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- (30) Money laundering (IC 35-45-15-5).
- (31) A violation of IC 35-47.5-5.
- (32) A violation of IC 9-18-8-10.5.**
- (33) A violation of IC 9-18-8-12.**
- (34) A violation of IC 9-18-8-13.**
- (35) A violation of IC 9-18-8-14.**
- (36) A violation of IC 9-18-8-15.**

SECTION 9. [EFFECTIVE JULY 1, 2003] IC 35-45-6-1, as amended by this act, applies only to an offense committed under IC 35-45-6-2 after June 30, 2003."

and when so amended that said bill do pass.

(Reference is to HB 1628 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 10, nays 0.

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